

# 2004 ANNUAL ETHICS TRAINING



# **WORKING WITH CONTRACTORS IN THE FEDERAL WORKPLACE**

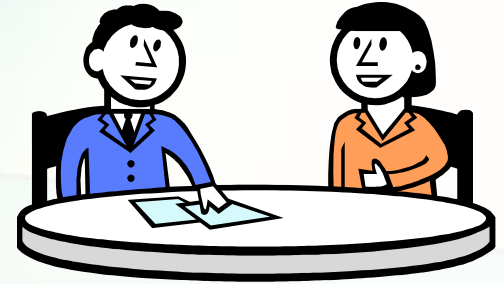


***“Avoid even the appearance  
of anything less than  
complete integrity, objectivity,  
and impartiality”***

**--SecDef**

# Changing Workplace

- **Contractors Support DoD Mission**
- **Contractors are “Partners”**



## Unchanging Laws

- **Fundamental Differences**
- **Legal and Ethical Limitations**



**Investigations Reveal:**  
***“The lines became too easy to cross, and no one was paying attention. I don't even think most people know where the lines are anymore.”***

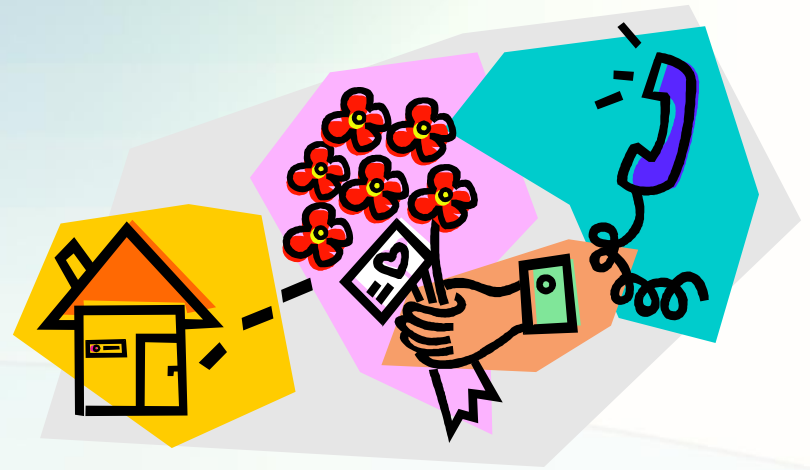
***Government Executive, February 2004, p. 21.***

# Goals

- ✓ **Re-establish the Lines**
- ✓ **Recognize when contractors and Federal employees must be distinguished**

# Topics:

- **Accepting Gifts**
- **Giving Time Off**
- **Evaluating Contractor Work**
- **Disclosing Procurement Information**
- **Seeking Employment with a Contractor**
- **Working for a Contractor After Government**



# Scenario # 1

***You are the program manager for the Universal Aircraft Program, and the cost reimbursement contract has been awarded to Best Aircraft. The team (“Universal Team”) of DoD and Best employees has been working well together and are ahead of schedule. To promote the smooth working of the team, Best’s project manager offers tickets to a Boston Red Sox baseball game for all the DoD and Best members of the team. The face value of each ticket is \$50.***

**May you or the other DoD Employees accept**

# Possible Answers

- A. Yes, accepting the tickets will contribute to team-building and help smooth the way for continued success on the program, which is an exception to the prohibition on accepting gifts.**
- B. No, Best does business with DoD, and no exception covers this offer.**

# Possible Answers (Cont)

**C. Yes, you and the others may accept the ticket from the contractor because there is an exception to the prohibition on accepting gifts that lets you accept gifts up to \$50 a year.**

**D. Yes, because Best got a deal on the tickets, the cost Best only \$15 each.**

# Correct Answer

The Correct Answer is "B"

- **The General Rule - You May Not Accept a Gift from Prohibited Sources**
- **No Exceptions Apply to These Facts**

# A Quick Follow-Up



**Could you and the other  
DoD employees go to the  
game with your Best  
teammates if you each  
paid**

**Best \$50 for each ticket?**

# A Quick Answer

- **If you pay market value, it is not a gift.**
- **Full face value of a ticket**
- **Should you?**
- **Remember, you must be objective and impartial.**

# Scenario # 2

**After almost 20 minutes of intense debate with yourself, you decide to get married to the person you met last month on your vacation to Tahiti. Having heard about your and your future spouse's cooking abilities, your DoD employees have decided to collect for a gift of a \$300 convection oven and are asking everyone on the Universal team (DoD and Best employees) to pitch in \$10 each.**

**May they do this?**

# Possible Choices

**A. Yes, while they normally may not solicit for group gifts for someone above them in the chain of command, there is an exception for gifts that are offered on special, infrequent, occasion, such as marriage.**

**B. Yes, because the Universal Team works for you, all team members are considered your subordinates and may give you gifts on this type of occasion.**

# More Possible Choices

**C. No, because they may not give you a gift that exceeds \$285 in value.**

**D. No, because they may not solicit business from contractor employees.**

# Correct Answer

The Correct Answer is "D"

**Contractor Employees are NOT DoD Employees**

- **The DoD Employee Gift Exception Does NOT Apply to Gifts from Contractors or their Employees.**
- **Gifts from Contractors are Limited to \$20 At Any One Time.**

## Scenario # 3

**Best invites you to the company's annual holiday party for its personnel and their best customers. It would be an open bar and dinner. Approximately 70 people are expected to attend.**

**May you accept?**

# Possible Answers

**A. No, this is a gift from a contractor, and there is no exception that would allow you to accept the gift.**

**B. Yes, your attendance will be in the interest of DoD since it will give you an opportunity to interact socially with Best personnel and some of its other customers.**

# More choices

**C. Yes, there is no restriction on accepting personal hospitality from contractors that are part of your 'team.'**

**D. Yes, are you kidding??  
Free dinner and open bar are  
always acceptable!**

# Correct Answer

The Correct Answer is "A"

- **The General Rule - You May Not Accept a Gift from Prohibited Sources**
- **The 'Widely Attended Gathering' Exception Does NOT Apply**

# Scenario # 4

**The Universal program has just met a major milestone and everyone is celebrating. The Admiral is so happy that he's authorized everyone in the office to take off 59 minutes early on Friday. You turn to the Best project officer and tell him that some of you are heading to the local restaurant at 4:01 and invite him and his people along. He's not too sure that he's allowed, but you say, "Look, the Admiral has pretty much ordered all of us to leave. See you down there."**

**What should you have done?**

# Paths to Choose From

- A. Tell the project manager to have all his employees take the time off and bill the time to the Government as a team-building meeting.**
- B. Tell the project manager to check with his boss as to whether they can take the time off.**

# More Paths

- C. Tell the project manager that you'll see him and his employees at 4:05, but that it's up to him to bill the time correctly.**
- D. Tell the project manager to take the day off on Friday, but to work another 59 minutes sometime in the week and to charge 8 hours each day.**

# Correct Answer

The Correct Answer is "B"

- **Private Employers, NOT the Government, Make Paid-Time-Off Decisions for Their Employees**

# Scenario # 5

**The Universal program is doing well, and the Admiral has given Congressional testimony to that effect. But now the Best technical manager tells you that the data for the Test results may be questionable because some sensors were not calibrated. The results could still be accurate or not. Because of the Admiral's testimony, Congress is on the verge of authorizing additional funding. Repeating the tests will take months. If that happens, Congress may eliminate funding.**

**What should you do?**

# Possible Answers

- A. Keep the information to yourself. It may turn out that the test results are accurate, so why get everybody excited now?**
- B. Mention the problem in a report, but downplay its significance, so that it may, or may not, be noticed.**
- C. Make a prompt report up the chain of command, together with your recommendations**

# Correct Answer

The Correct Answer is "C"

**Remember,**

**“Public Service is a Public Trust”**

- **The issue is your integrity.**
- **Ensure the Public’s Confidence in Government**

# Scenario # 6

**Best Aircraft Corp., Not-Quite-So-Good Aircraft Co., and Worst Aircraft Limited Liability Co. are the bidders on a multi-billion dollar contract to build the ABFX all-weather, variable-wing, hypersonic all-purpose aircraft. As the chief of the ABFX technical evaluation team, you know the cost and pricing data from Worst Aircraft's bid.**

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# Scenario 6 (cont)

**After a team meeting on the Universal Aircraft program, Best's project manager asks about the ABFX procurement. You tell him that they have a good technical proposal, and you're just about to tell him that they may not be the lowest price, which is a real concern.**

**May you tell him that?**

# Possible Answers

- A. Yes, but only if you reopen discussions and advise all of the offerors of their standing with regard to price.**
- B. No, Worst's cost and pricing data are protected from public disclosure under Federal acquisition rules.**
- C. Yes, as long as you do not receive any benefit from Worst's competitors in exchange for giving them Worst's cost and pricing data.**

# Correct Answer

The Correct Answer is "B"

- **Improper Disclosure of Nonpublic Government Procurement Information Violates the Integrity of the Procurement Process**

## Scenario 7 – **A Happy Ending?**

**You have acted properly by reporting the flaws in the data for the test results. While the Admiral was not thrilled with the bad news, your report helped him correct the problem. You kept your good standing with your boss and your good relations with the contractor.**

*(continued on next slide)*

## Scenario 7 (cont)

**Best's project manager tells you that it expects to get the ABFX award, and that it will need the 'right someone' to take charge of one of the major tasks, someone like you.**

**What may you tell him?**

# Likely Answers

- A. Yes, you can meet Best now to discuss employment because your duties do not involve any decisions on awarding the contract, just providing technical evaluation to the Source Selection Authority.**
- B. No, you may not discuss employment with Best because you are the chief of the technical evaluation team on ABFX and Best is one of the offerors, and you are the program manager of the Universal program, on which Best is the contractor.**

## More Likely Answers

- C. Yes, you want to discuss employment with Best, but have to wait until after the award is made.**
- D. Maybe, but you will immediately find out what to do before doing anything else.**

# Correct Answer

The Correct Answer is "D"

- **You Have the Right to Seek Employment**
- **Disqualify First**
  - **Recusal Under Procurement Integrity Act**
  - **Before Seeking Employment with Affected Parties**
  - **Resume Participation?**

- **The Correct Answer is “D”:**
- **You Have the Right to Seek Employment**
- **Disqualify First**
  - **Disqualify From Personal and Substantial Participation**
  - **In a Particular Matter**
  - **Before Seeking Employment with Affected Parties**

## Scenario 8 – A Happy Ending Now?

**On May 30 of last year, you retired after 30 years of Federal service. Because of your expertise and enjoyment as Universal program manager, you had rejected Best's earlier employment overture. Besides, you wanted to take a A Round-the-World cruise before making any specific arrangements to work in the private sector.**

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# Scenario 8 (cont)

**Now you have been retired over a year, and ready to go back to work. Last Tuesday, you approached Best Aircraft about employment. On Wednesday, Best offered you a job on the ABFX program. (It got the award!) An essential part of your job would be interacting with DoD employees on the execution of the ABFX contract, but you would not have to drum up any new business for Best.**

**May you take the job with Best Aircraft?**

# Choices

- A. No, since you were the chief of the technical evaluation team on the ABFX procurement, valued at more than \$10 million, you are barred for life from working for the company that won the award.**
- B. No, because you can't represent Best to Federal employees.**
- C. Yes, since more than a year has passed, you are no longer subject to the employment ban.**

# Correct Answer

The Correct Answer is "B"

- **You are NOT Prohibited from Working for Best**
- **You Have a Lifetime Bar on Representing**
  - **Someone Else (Best)**
  - **Concerning a Particular Matter (ABFX)**
  - **If You Participated Personally and Substantially in that Matter**

# Scenario # 9

**Before you retired, a situation occurred that has always bothered you. The BEST project manager and you were having a technical discussion about the feasibility of a possible modification to the Universal program contract, when retired General Wiseman dropped in on the discussion.**

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# Scenario 9 (cont)

**General Wiseman had been your supervisor. He had retired 13 months previously and had been the Universal program manager. BEST recently hired him to support the program. He had concurred with BEST's project manager that the technical and cost elements of the modification could be a significant change. The General then told you that you could consider the project manager as his personal representative.**

**What should you have done?**

# Possibilities

- A. Do nothing. The General didn't do anything wrong.**
- B. Have an off-the-record chat with the BEST project manager and tell him that you don't think the General can work on the program.**
- C. Tell your boss that you think the General may be jeopardizing the program.**

# Correct Answer

The Correct Answer is "C"

- **You Have a Duty to Report**
  - **Up Your Chain of Command**
  - **Even if You're Not Sure**

# One-Year Ban

- **18 U.S.C. 207(c)**
  - **Senior officials**
  - **Barred from representing others to employees of their former agency**
  - **With the intent to influence**
  - **Concerning official matters**
  - **For 1-year after leaving senior position**



# I. Employees' Responsibilities under Executive Order 12674 (as amended):

## **DO**

- **Place Loyalty to the Constitution, the Laws, and Ethical Principles above Private Gain**
- **Act Impartially to all Groups, Persons, and Organizations**
- **Give an Honest Effort in the Performance of your Duties**
- **Protect and Conserve Federal Property**
- **Disclose Fraud, Waste, Abuse, and Corruption**
- **Fulfill Obligations as Citizens and Pay your Taxes**
- **Comply with Equal Opportunity Laws**

# I. Employees' Responsibilities under Executive Order 12674 (as amended):

## **DO NOT**

- **Use Nonpublic Information to Benefit Yourself or Associates**
- **Solicit or Accept Gifts from Parties Doing Business With or Seeking Official Action from DOD**
- **Make Unauthorized Commitments or Promises**
- **Use Federal Property for Unauthorized Purposes**
- **Take Jobs or Hold Financial Interests that Conflict with our Government Responsibilities.**
- **Take Actions that even Appear to be Illegal or Unethical**

## II. Guidance for DOD Personnel:

- **Specific guidance for DOD personnel may be found in DOD 5500.7-R, Joint Ethics Regulation, and at the DOD Standards of Conduct Office website:**

**[http://www.defenselink.mil/dodgc/defense\\_](http://www.defenselink.mil/dodgc/defense_)**

### III. Employees' Responsibilities under Federal Conflict of Interest Statutes:

- ***Conflicting Financial Interests***
- ***Bribery and Graft***
- ***Outside Representation or  
Compensation in Matters Involving  
Government***
- ***Post-Government Employment  
Restrictions***
- ***Supplementation of Federal Salary***

# Conflicting Financial Interests

- You May **NOT** Officially Participate
- In a Particular Matter
- That Could Affect your Financial Interests or
  - those of your spouse, minor children, general partner, or organization with which you are negotiating or have an arrangement for future or current employment
- If You Have a Conflict, Contact your Ethics Counselor to Determine The Remedy

# Bribery and Graft

- **You May NOT Seek or Accept**
  - ✓ **Anything of Value**
  - ✓ **For Being Influenced in your Official Duties**

# Outside Representation or Compensation in Matters Involving the Government

- **You Generally May NOT Represent**
  - **or Share in any Compensation From a Representation Made by Someone Else While You Were a Government Employee**
- **To a Federal Agency or Court on a Particular Matter**
- **Whether you Receive Compensation or Not**

# Post-Government Employment Restrictions

## **Seeking Nonfederal Employment**

- You May **NOT** Do Government Work
- That Affects Your Possible Future Employment or
- Someone With Whom You Are Seeking Employment

# Post-Government Employment Restrictions

## **Procurement Integrity Ban**

- **No Compensation for One Year**
- **If You Held a Certain Position**
- **In a \$10 Million Matter**
- **Ethics Advisory Letter**

# **Post-Government Employment Restrictions Senior Officials**

- **Flag and General Officers, and**
- **Civilians Whose Basic Pay is \$136,757+ (in 2004)**
- **For One Year**
  - **May Not Represent Back To Their Agency**
  - **May Not Aid, Advise, or Represent a Foreign Government or Foreign Political Party**

# Post-Government Employment Restrictions

## **All Officers and Employees**

- **Lifetime Ban - Personal and Substantial Participation**
- **Two-Year Ban - Official Responsibility**
- **One-Year Ban - Trade or Treaty Negotiations**
- **Nonpublic Government Information**

# Post-Government Employment Restrictions **Military Specific**

- **BEFORE You Accept Compensation**
- **From a Foreign Government**
- **Get Approval from your Service Secretary**

- **No civil office while on terminal leave**
- **6-month wait to work for DoD**



# Supplementation of Federal Salary

- **You Generally May NOT Accept**
  - ✓ **Any Compensation**
  - ✓ **From a Non-Federal Source**
  - ✓ **For Your Government Work**

*No Matter the Issue  
(But Especially Concerning  
Employment)  
If You're Not Sure What To Do  
Always  
Check with Your Ethics Counselor*